THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.19039 of 2006

Date: 13th September, 2006

Between :-

M/s.Canfel Pet Clinic, rep. by
Dr.M.Praveen Kumar ..
Petitioner

And

The Commissioner, Municipal Corporation
Of Hyderabad, Adj.to Boorugula Ramakrishna Rao
Building, Tank Bund, Hyderabad and another

..
Respondents

THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.19039 of 2006

ORDER:-

Heard both the Counsel.

2. Sri Narayana Rao, the learned Counsel representing the petitioner had explained the facts and circumstances in detail and would maintain that the Hyderabad Municipal Corporation has no authority to issue such notice under Section 521 of the Hyderabad Municipal Corporation Act 1955 since the provisions of the said Act as specified in the impugned notice are not attracted. The learned Counsel also would submit that even otherwise the petitioner was not put on notice at least to raise his objections in this regard. The Counsel also would submit that for sufficiently a long time, the petitioner has been running the said Clinic and such a direction to close down the Pet Clinic within 7 days from the date of receipt of the notice and to report compliance is both unreasonable and arbitrary.

3. Per contra, Sri Ghanta Rama Rao, the learned Counsel representing the respondents would submit that inasmuch as the same is causing nuisance, the provisions of Section 521 of the Act aforesaid are clearly

attracted.

4. The Writ Petition is filed for a Writ of Mandamus declaring the action of the 2nd respondent in issuing the notice No.1/AD/VET/MCH/2006 dated 12-9-2006 to close the clinic in the premises bearing Flat No.4, H.No.6-3-669/H/5, Opp. Kanti Sikhara Complex, Ground Floor, A-Habeeb Apartments, Somajiguda, Hyderabad within one week is illegal, arbitrary and unconstitutional and consequently set aside the same and pass such other suitable orders.

5. It is stated by the petitioner that the petitioner hold M.V.Sc., and had established a Pet Clinic in the name and style of Canfel Pet Clinic as early as in the year 1993. It is also stated by the petitioner that he had been operating the said Clinic in the Ground Floor, Flat No.3, H.No.6-3-669/A/H/3, Al-Habeeb Building extension of Kanti Sikara Complex, Somajiguda, Hyderabad. It is also stated that the said Kanti Sikara Complex has approximately 300 own and rented flats and the basic activities of the Clinic is to look after the Pet Dogs owned by the owners and the petitioner is the President of the Pet Clinics Practitioners Association of Andhra Pradesh. It is also stated that on day-to-day basis the Clinic is treating 8 to 10 dogs per day and the pet dogs are being brought by the owners on their

own for out-patient treatment. It is further stated that for the last 13 years the petitioner has been running the same and as early as 5 years back, the petitioner had taken a big premises in the Ground Floor, Al-Habeeb Building, Extension of said Kanti Sikara Complex. Apart from these factual details, several other additional facts also had been narrated in paras 7 to 17 of the affidavit filed in support of the Writ Petition. The order impugned in the Writ Petition reads as hereunder:-

> *"While enclosing a copy of the complaint referred above made by Sri M.A.Kareem, Advocate against your clinic run by you in the premises bearing Flat No.4, H.No.6-3-669/H/5, Opp.Kanti Sikhara Complex, Ground Floor, Al-Habeeb Apartments, Somajiguda, Hyderabad, you are hereby informed that you are running the Dog Clinic by name M/s.CANFEL PET CLINIC in the said premises unauthorizedly which is causing nuisance and health hazard to the residents in the same complex as is evident from the contents of the complaint. This is strictly not permissible and is in violation of Section 521 of H.M.C.Act, 1955. Besides you are hereby informed that for such trade no license will be issued by the MCH.*
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> *As such you are hereby informed that your action is not proper and is highly irregular. You are hence directed to stop your trade and close down the said pet clinic in the said premises within seven (7) days from the date of receipt of*

this notice and report compliance."

6. In the light of the facts and circumstances well explained, this Court is of the considered opinion that the Writ Petition to be disposed of directing the respondents to treat the impugned notice as show-cause notice and the petitioner is given liberty to raise all objections to the said impugned notice within a period of two weeks and the 2nd respondent to look into the objections which may be raised by the petitioner in this regard, consider the same and pass appropriate orders in this regard. Till orders are passed, the respondents are directed not to interfere with the petitioner running of the Clinic in question. Accordingly, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

13th September, 2006

smr